

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CASE NO: 2018-018704-CA-01
SECTION: CA13
JUDGE: JAVIER A. ENRIQUEZ

DEUTSCHE BANK NATIONAL TRUST COMPANY,
Plaintiff,

v.

MARIO MIRABAL,
Defendants.

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DEFENDANT'S EMERGENCY FORMAL OBJECTION TO OCTOBER
13, 2025 HEARING AND REQUEST FOR IMMEDIATE RULING ON
RULE 1.540(d) MOTION

COMES NOW Defendant Mario Mirabal, pro se, and respectfully files this
Emergency Formal Objection to the Special Set Hearing scheduled for

October 13, 2025 at 7:00 AM. The docketed notice identifies the hearing as addressing “All Pending Motions,” yet this conflicts with Florida law, due process, and the jurisdictional structure of this case.

1. THE MOTION TO STRIKE KP AND ATTORNEY DAMAS IS A THRESHOLD GATEKEEPING MOTION

Defendant’s Motion to Strike KP Investments and Attorney Kenneth Damas as Improper Non-Parties was filed on July 25, 2025, and renewed on September 5, 2025. This motion remains pending.

As consistently argued in prior filings and correspondence, this is a jurisdictional gatekeeping motion. KP Investments was never named in the original foreclosure action and lacks legal standing to participate. To allow any hearing involving KP or their counsel would prejudice Defendant and contaminate the record.

2. OCTOBER 13 HEARING IMPROPERLY ENCOMPASSES MOTIONS PREDATING CONTROLLING FILINGS

The Court’s docketed Notice of Hearing states that “All Pending Motions” will be addressed. However, email threads submitted by opposing counsel enumerate motions dating back to December 5, 2024, while conveniently omitting Defendant’s two controlling filings:

The Rule 1.540(d) Motion for Relief from Void Order (filed June 14, 2025); and

The Emergency Motion to Strike KP Investments and Attorney Damas (filed July 25, 2025 and renewed September 5, 2025).

This raises serious ambiguity about which motions are actually to be heard. Moreover, the inclusion of earlier motions while excluding those of jurisdictional primacy defies proper procedural order.

3. THE RULE 1.540(d) MOTION IS CONTROLLING AND MUST BE DECIDED FIRST

On June 14, 2025, Defendant filed a Rule 1.540(d) Motion for Relief from Void Order regarding the December 3, 2024 ruling and reaffirming the March 5, 2020 Final Dismissal with Prejudice entered by Judge Bokor.

Under Florida law, a motion asserting voidness under Rule 1.540(d) is not discretionary — it must be ruled on before the Court can move forward on any other matters. Its resolution determines whether the Court even has jurisdiction to proceed.

The proper sequence is:

Rule on the 1.540(d) Motion on the papers;

If a hearing is requisite, first adjudicate the Motion to Strike KP and Attorney Damas and Cunill before allowing their participation;

Only then may the Court evaluate whether any residual motions remain

relevant.

4. PROCEEDING NOW RISKS FURTHER VIOLATIONS AND JURISDICTIONAL CONFLICT

Moving forward with a broad hearing as currently docketed — without first addressing Defendant's controlling motions — would:

Violate Defendant's procedural and constitutional rights;

Undermine the integrity of these proceedings and the doctrine of primary jurisdiction; and

Constitute further suppression of adjudication and abuse of discretion.

5. REQUESTED RELIEF

Defendant respectfully requests that this Court:

Cancel the October 13, 2025 hearing as presently noticed;

Adjudicate on the papers Defendant's pending Rule 1.540(d) Motion for Relief from Void Order;

Only if a hearing is deemed necessary, first rule on the Motion to Strike KP Investments and Kenneth Damas before permitting their appearance or participation in any proceedings.

Respectfully submitted,

Mario Mirabal

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Dated: October 6, 2025